

REMARKS

Claims 1-19 are pending in the instant application and are subject to an amended Restriction Requirement. The Applicants elect with traverse claims 1-9 of Group I for the reasoning set forth in the prior response to a Restriction Requirement filed May 6, 2008. As a result claims 10-19 are withdrawn. Claims 1-9 stand rejected under 35 U.S.C. 112, second paragraph. Claims 1,2 and 9 are rejected under 35 U.S.C. 103 as being unpatentable over Morimoto et al (US 2002/0120475) in view of Stoica (US 6,728,701) in further view of Webb (US 2004/0257225). Claims 3-8 are rejected under 35 U.S.C. 103 as being unpatentable over Morimoto et al (US 2002/0120475) in view of Stoica (US 6,728,701) in further view of Webb (US 2004/0257225) and Stratmoen (US 2004/0041706). Claims have been amended and allowance of all pending claims is requested.

Rejections Under 35 U.S.C. 112, second paragraph

In paragraph 8 on page 6 of the July 22, 2008 office action, the examiner asserts that claims 1-9 stand rejected under 35 U.S.C. 112, second paragraph for various limitations. Modification has also been made to independent claims 1, 6-7 and 8 to overcome inconsistencies in the claim language itself in the above amendment, thus it is believed that the rejection based in Section 112 is also overcome.

Rejections Under 35 U.S.C. 103

Claims 1,2 and 9 are rejected under 35 U.S.C. 103 as being unpatentable over Morimoto (US 2002/0120475) in view of Stoica (US 6,728,701) in further view of Webb (US 2004/0257225). Claims 3-8 are rejected under 35 U.S.C. 103 as being unpatentable over Morimoto (US 2002/0120475) in view of Stoica (US 6,728,701) in further view of Webb (US 2004/0257225) and Stratmoen (US 2004/0041706). The Examiner's Section 103 rejection is based on alleged combination of Morimoto, Stoica, and Webb. Morimoto teaches a system and method for arranging shipment and insurance for an item. However, in the Office Action, the Examiner claims that the reference teaches "ensuring data input in a format acceptable to a system identifying and tracking at least one particular container" (See Paragraph 15 at p. 7). The Examiner then admits that it does not teach the limitations allegedly taught by Stoica "identifying each item by a profile, checking said data input for each profile against a thesaurus-

like data recognizer software program having access to multiple terms for at least one of the data inputs, and expanding the total amount of information kept for containers by matches in said thesaurus-like data recognizer program.” The Applicants note that Stoica actually teaches a method and apparatus for database retrieval utilizing vector operation. The interpretation asserted by the Examiner is merely attempting to match limitations to claim elements of the instant application.

Without accepting that these two references actually teach these limitations of claim 1, the Applicants maintain that the Examiner has not set forth a prima facie case for obviousness by merely asserting that it would have been obvious to have done so “to organize a database.” These two references are not relate to analogous art and are not attempting to solve any type of related problems. The decision to attempt to combine these references is clearly guided by the Applicants claimed invention. This represents the definition of impermissible hindsight.

The addition of Webb to further add teachings related to use of business rules to such a combined system is made by the Examiner with the further assertion that it would have been obvious to have done so “to solicit a follow-up by appropriate officials.” How this assertion relates to including business rules as recited by the claims is beyond the understanding of the undersigned counsel. It further fails to address the deficiency of the original combination of references as being properly motivated, let alone adding Webb to the combination. The entire rejection is made by the Examiner by finding teachings of the what is asserted to be the various claim limitations and to baldly assert that it would have been obvious to have done so. Such is not the requirements Section 103 as defined within the Supreme Court’s John Deere decision.

The addition of Stratmoen to reject dependent claims 2-8, like Webb, fails to remedy the deficiency of the underlying rejection. These claims are being rejected based upon impermissible hindsight for similar reasoning. For at least these reasons, these rejections are improper and must be withdrawn.

Conclusion

Applicants respectfully request examination and a Notice of Allowance. If the Examiner believes a telephone conference would advance the prosecution of this application, the Examiner is invited to telephone Applicants' attorney, Richard Gregson, Reg. No. 41,804, at (215) 986-3325.

Respectfully submitted,

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